

5-15-2012

Johnson v. Highway 101 Investments, LLC Augmentation Record Dckt. 39160

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In the Supreme Court of the State of Idaho

KENTON D. JOHNSON, a married man
dealing with his sole and separate property;
NEPHI H. ALLEN, a married man dealing
with his sole and separate property; and
REXBURG PLUMBING & HEATING LLC,
an Idaho limited liability company,

Plaintiffs-Counterdefendants-
Appellants,

v.

HIGHWAY 101 INVESTMENTS, LLC,

Defendant-Counterclaimant-
Respondent.

ORDER AUGMENTING CLERK'S
RECORD

Supreme Court Docket No. 39160-2011
Madison County Docket No. 2010-115

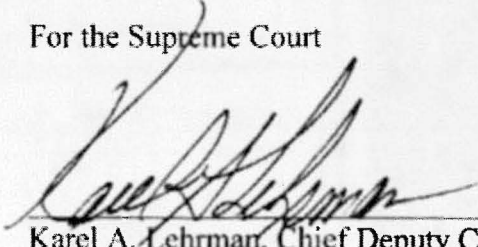
LAW CLERK

An OBJECTION TO THE RECORD AND REQUEST TO ADD TO THE RECORD was filed in District Court March 28, 2012 requesting that the AFFIDAVIT OF BARBARA MILLER filed in District Court April 8, 2011 be added to the Clerk's Record. The Clerk's Record was filed in this Court on April 3, 2012, but did not include the Affidavit of Barbara Miller. A copy of the Affidavit has been received by this Court. Therefore, good cause appearing,

IT HEREBY IS ORDERED that the Clerk's Record shall be AUGMENTED with the AFFIDAVIT OF BARBARA MILLER which was filed in District Court April 8, 2011.

DATED this 15th day of May 2012.

For the Supreme Court


Karel A. Lehrman, Chief Deputy Clerk for
Stephen W. Kenyon, Clerk

cc: Counsel of Record
District Court Clerk

AUGMENTATION RECORD

ORDER – Docket No. 39160-2011

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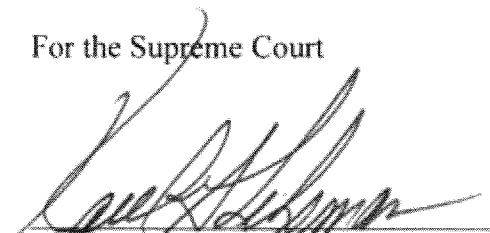
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Stephen W. Kenyon, Clerk

cc: Counsel of Record
District Court Clerk

Bryan D. Smith, Esq. – ISB #4411
B. J. Driscoll, Esq. – ISB # 7010
SMITH, DRISCOLL & ASSOCIATES, PLLC
414 Shoup Ave.
P.O. Box 50731
Idaho Falls, Idaho 83405
Telephone: (208) 524-0731
Facsimile: (208) 529-4166

Attorneys for Defendant and Counterclaimant
Highway 101 Investments, LLC

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

KENTON D. JOHNSON, a married man
dealing with his sole and separate property
and NEPHI H. ALLEN, a married man dealing
with his sole and separate property, and
REXBURG PLUMBING & HEATING LLC, an
Idaho limited liability company,

Plaintiffs,

v.

HIGHWAY 101 INVESTMENTS, LLC,

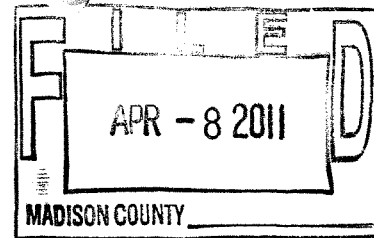
Defendant,

HIGHWAY 101 INVESTMENTS, LLC,

Counterclaimant,

v.

KENTON D. JOHNSON, a married man
dealing with his sole and separate property
and NEPHI H. ALLEN, a married man dealing
with his sole and separate property, and
REXBURG PLUMBING & HEATING LLC, an
Idaho limited liability company,



#39140

2012 APR 26 A 10:35

Case No. CV-10-115

AFFIDAVIT OF BARBARA MILLER

Counterdefendants.


STATE OF IDAHO)
) ss.
County of Bonneville)

Barbara Miller, being first duly sworn on oath, deposes and says:

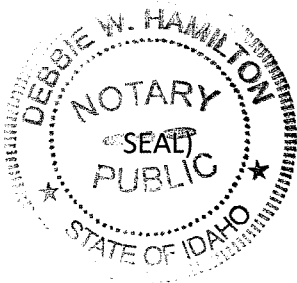
1. I am one of the members of the defendant in the above-referenced case.
2. Highway 101 chose the location of the sign post and bollards because placing it near Highway 33 makes it visible to customers. The farther back from Highway 33 the sign is placed, the less visible the sign becomes to customers.
3. Although there are other locations on property belonging to Highway 101 where the sign could be installed, all other such locations have obstructions requiring the sign to be extended higher than currently permitted under the City of Rexburg's zoning restrictions

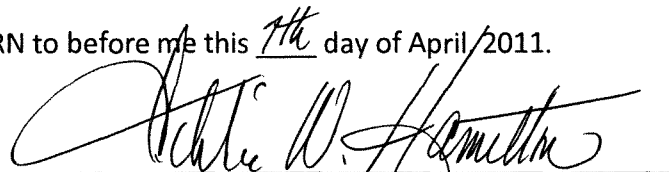
Further your affiant sayeth naught.

DATED this 7th day of April, 2011.


Barbara Miller

SUBSCRIBED AND SWORN to before me this 7th day of April 2011.

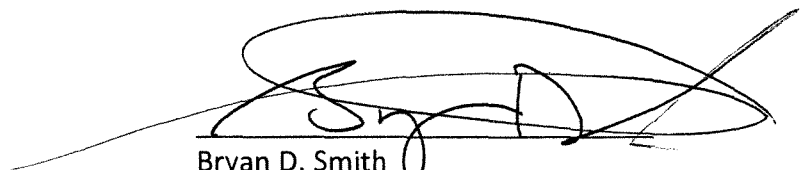



Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 04/11/11

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of April, 2011, I caused a true and correct copy of the foregoing **AFFIDAVIT OF BARBARA MILLER** to be served, by placing the same in a sealed envelope and depositing in the United States Mail, postage prepaid, or hand delivery, facsimile transmission or overnight delivery, addressed to the following:

Hyrum D. Erickson, Esq. RIGBY, ANDRUS & RIGBY, Chartered Attorneys at Law 25 North Second East Rexburg, Idaho 8340	<input checked="" type="checkbox"/> U. S. Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Hand Delivery
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Bryan D. Smith